

Please Note: These transcripts are not individually reviewed and approved for accuracy.

COMMITTEE MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD  
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
SIERRA HEARING ROOM  
SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 10, 2004  
1:30 P.M.

TIFFANY C. KRAFT, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Rosario Marin, Chair

Michael Paparian

Rosalie Mul

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Elliot Block, Staff Counsel

Garth Adams, Staff

Sharon Anderson, Branch Manager, LEA Support Services  
Branch

Bridget Brown, Staff

Mark De Bie, Permitting and Inspection

Tadese Gebre-Hawariat, Staff

Toni Jimenez, Committee Secretary

Bernie Vlach, Branch Manager, Facilities Operations Branch

Scott Walker, Branch Manager, Remediation, Closure, &  
Technical Services Branch

ALSO PRESENT

Chuck Helget, BFI/Allied Waste

Scott Smithline, Californians Against Waste

Larry Sweetser, Rural Counties ESJPA

Chuck White, Waste Management

INDEX

|  | PAGE |
|--|------|
| Roll Call And Declaration Of Quorum  | 1    |
| A. Deputy Director's Report  | 2    |
| B. Consideration of Adoption of Proposed Solid Waste Facility Permit Application Form (E-1-77) Regulations                             | 10   |
| C. Consideration of a Revised Full Solid Waste Facilities Permit (Disposal Facility) For The Borrego Landfill, San Diego County Motion | 7    |
| Vote   | 9    |
| D. Adjournment   | 36   |
| E. Reporter's Certificate  | 37   |

1 PROCEEDINGS

2 CHAIRPERSON MARIN: Good afternoon and thank you  
3 everybody for being here today. Welcome to the permitting  
4 and Enforcement Committee of the California Integrated  
5 Waste Management Board.

6 And we're going to establish a quorum. It's 1:30  
7 on the dot. Please call the roll.

8 EXECUTIVE ASSISTANT JIMENEZ: Mulé?

9 COMMITTEE MEMBER MULÉ: Here.

10 EXECUTIVE ASSISTANT JIMENEZ: Paparian?

11 COMMITTEE MEMBER PAPARIAN: Here.

12 EXECUTIVE ASSISTANT JIMENEZ: Marin?

13 CHAIRPERSON MARIN: I'm here.

14 Thank you.

15 The three of us that are supposed to be here are  
16 here. That's wonderful.

17 Our regular Director is not here. In lieu of  
18 that, they have somebody who is better looking. Don't  
19 tell him I said that.

20 EXECUTIVE DIRECTOR LEARY: I'm telling Howard you  
21 said that.

22 CHAIRPERSON MARIN: That is not going on the  
23 record.

24 COMMITTEE MEMBER PAPARIAN: Too late.

25 COMMITTEE MEMBER MULÉ: It already is.

1 CHAIRPERSON MARIN: Oh, well.

2 Go ahead, Sharon.

3 BRANCH MANAGER ANDERSON: Welcome to the P&E

4 Committee meeting and the beauty contest.

5 Besides our two regular agenda items, a rather  
6 slender agenda, I wanted to give you the Deputy Director's  
7 report.

8 And an update first on Gregory Canyon. As you  
9 know, the San Diego County Board of Supervisors has agreed  
10 to place Proposition B on the November ballot. The  
11 Proposition is based on the certified initiative petition  
12 supported by opponents to the landfill. Although the  
13 project proponent waived the time frame for another month,  
14 we will talk in September as to whether or not -- we'll  
15 find out whether or not that item will come forward in  
16 September or whether the operator will continue to waive  
17 time until after the initiative is heard on the ballot.

18 There are a couple of articles that I forwarded  
19 to the Executive Office and to the Board members from a  
20 couple of newspapers so you already have that information.

21 Secondly, last week we -- the Permitting and  
22 Enforcement Division's Bernie Vlach had to head up the  
23 ERMAC drill on behalf of our Board. And that happened  
24 last Thursday and Friday. And Bernie was going to speak  
25 just a couple of words on his experience on that and the

1 fact that he got to meet the Governor.

2 BRANCH MANAGER VLACH: Good afternoon, members of  
3 the Committee. I'm Bernie Vlach.

4 You may know that the key members of Board staff,  
5 particularly the management, are integrated with what's  
6 called the Standardized Emergency Management System that  
7 starts from the federal government and is organized  
8 through the Office of Emergency Services and then within  
9 our agency and all the way within our Board.

10 And last week, you may have seen it on the news,  
11 on Thursday and Friday there was a joint exercise, a  
12 nationwide exercise called Determine Promise. In  
13 California it was called the Golden Guardian, and it  
14 involved simulated terrorist attacks in California. Also  
15 simultaneously there were attacks on the east coast.

16 But for purposes of this meeting, Board staff  
17 responded by requests from the Office of Emergency  
18 Services were available at the State Operation Center in  
19 Rancho Cordova and passed tasks from that office down  
20 through our Department of Operations Center to Mr. Leary  
21 and finally to specific staff to return the information  
22 back to the State Operations Center and the Regional  
23 Emergency Operations Center in Los Angeles in response to  
24 the emergency. So we are integrated in -- and it was a  
25 good test to the system, and we're ready to go if

1 something happens.

2 CHAIRPERSON MARIN: We'll pray that nothing ever  
3 happens.

4 Thank you, Bernie.

5 BRANCH MANAGER ANDERSON: Thirdly, just wanted to  
6 let you know on the C&D, the construction and demolition,  
7 permit status update. Staff are still working to collect  
8 the information on the local enforcement agencies. And  
9 the information is so varied, that's why it's taking a  
10 little bit longer. And so what we'll probably be doing is  
11 getting you more detailed information in the next report  
12 or sometime between now and September.

13 On a second to last count, we've agendized  
14 another item under Reports and Presentations to be heard  
15 at the full Board. It's an extension of a stipulated  
16 agreement that the Shasta County LEA issued with the  
17 Anderson Landfill. The regulations require that the local  
18 enforcement agency report to the Board at the next  
19 regularly scheduled meeting, at which time they will do  
20 so. Also, our staff must submit recommendations to the  
21 Executive Director. And we're in the process of doing an  
22 analysis on the extension and submitting our  
23 recommendations to Mark Leary so he can make any decisions  
24 as needed or not. You'll hear that at the full Board  
25 meeting under Section 4, Reports and Presentations. So I

1 wanted to give you a heads up on that.

2 And, lastly, Scott is going to give us a brief  
3 update on La Montaa and some of the actions that are  
4 happening there.

5 BRANCH MANAGER WALKER: To recap recent  
6 developments, the city's motion for a -- petition to the  
7 court to motion for a receiver was granted on the 13th of  
8 July. And the receiver essentially has control over the  
9 property, including requirement to give us authorization  
10 to go forward.

11 Last Thursday, staff got the formal request for  
12 authorization to the receiver along with the contractor's  
13 removal plan, and it includes destination facilities and  
14 initial price quotes. So our cost estimates are pinned  
15 down better.

16 The CEQA and Notice of Exemption, statute of  
17 limitations has passed without challenge. That happened  
18 last week. We also have completed a community health and  
19 safety plan and draft public notice and fact sheet that  
20 we've drafted, and those are out for comment.

21 Good news in that cost estimates are at the lower  
22 end of what we originally had projected. They're around  
23 \$2.1 million. Remember, we were at 1.8 to 2.8. So we've  
24 gotten it down quite a bit.

25 The project would take 60 working days. And it's



1 anticipated that the bulk of the material is probably  
2 going to be utilized as engineered fill at mine  
3 reclamation facilities, fully permitted facilities. Our  
4 contractor would also market the processed material  
5 directly to construction sites within that time frame.  
6 And, hopefully, we can get some of that at a lower cost  
7 than a higher use.

8           Upon authorization by the receiver, we will get  
9 the final price quotes confirmed also for those  
10 facilities. But we would use a range of facilities that  
11 we've identified and vetted.

12           We are a little bit delayed in the sense that the  
13 receiver canceled meetings with us -- a couple meetings  
14 with us over the last two weeks. He's not going to be  
15 able to act until next Tuesday at the earliest. So we're  
16 getting geared up to get ahold of him and get this thing  
17 moving.

18           We were hoping based on his early input to move  
19 forward with a tentative public meeting on the 25th of  
20 August and then starting the project shortly thereafter.  
21 We will now reschedule that public meeting after we get  
22 the response from the receiver. So hopefully that should  
23 get spelled out pretty well next week.

24           CHAIRPERSON MARIN: But it shouldn't be too far  
25 after that day?

1           BRANCH MANAGER WALKER: No. Essentially, right  
2 now based on the city's attorney's response in terms of  
3 the time frame, it's like 21 days the receiver has to file  
4 with the court and, you know, from his act. And so we  
5 anticipate the public meeting will probably be around  
6 mid-September right now and start late September and we'd  
7 be into December to complete it.

8           So just to conclude, we're pretty much ready to  
9 go just pending the authorization and the public meeting.  
10 And we'll continue to give updates to the Committee and  
11 the Board.

12           CHAIRPERSON MARIN: Thank you, Scott.

13           It would be nice for that community. Okay.  
14 Great. Thank you.

15           BRANCH MANAGER ANDERSON: If it's the pleasure of  
16 the Chair, what we'd like to do for the regular item, Item  
17 C for P&E, Item 3 for the full Board we'd like --

18           CHAIRPERSON MARIN: That's what we're going to  
19 do, because Item 2 will take a little bit longer, but  
20 probably not that much more.

21           BRANCH MANAGER ANDERSON: And making the  
22 presentation for Consideration of a Revised Full Solid  
23 Waste Facilities Permit Disposal Facility for the Borrego  
24 Landfill in San Diego County is Tadese Gebre-Hawariat.  
25 And we call him Tad.

1           CHAIRPERSON MARIN:   Much easier.

2           Hi, Tad.

3           MR. GEBRE-HAWARIAT:   Good afternoon.   For the  
4 record, my name is Tadesse Gebre-Hawariat, and I'm with the  
5 Permitting and Inspection Branch.

6           The proposed revised permit is to allow the  
7 following changes at Borrego.   The permit is to change the  
8 facility name from Borrego Springs to Borrego Landfill.

9           It's to increase the permitted total landfill  
10 acreage without increasing the footprint from 42.03 to  
11 45.92, thereby eliminating an outstanding issue that the  
12 LEA has with the landfill.

13          The permit is also to increase the days and hours  
14 of operation from 7:00 a.m. to 2:00 p.m. Tuesday through  
15 Saturday to the new hours and days of 7:00 a.m. to 4:00  
16 p.m. Monday through Saturday.

17          The proposed permit it also to change the  
18 estimate of the closure period for the landfill from 2014  
19 to 2021.

20          Along the way, the permit is to revise and update  
21 the reported disposal site information in the form of the  
22 currently required joint technical document, or JTD.

23          And, lastly, the permit is to provide an update  
24 to the preliminary closure plan for the facility.

25          As we have indicated in the table on page 3-4 of

1 the revised agenda item all of the requirements for the  
2 proposed permit have been met. Therefore, staff  
3 recommends that the Board adopt Solid Waste Resolution  
4 Facility Resolution Number 2004-210 concurring with the  
5 issuance of Solid Waste Facility Permit Number 37-AA-006.

6 With us today are Ms. Melissa Porter and Ms. Pam  
7 Raptis from the LEA's office, and Deanna Boshears, the  
8 compliance manager for Allied Waste Industries. They're  
9 here to answer any questions you may have on the project.

10 This concludes my presentation.

11 CHAIRPERSON MARIN: Thank you, Tad.

12 Are there any questions at all from the Committee  
13 members?

14 Okay. With that --

15 COMMITTEE MEMBER MULÉ: I'd like to move approval  
16 of Resolution 2004-210, Consideration a Revised Full Solid  
17 Waste Facilities Permit Disposal Facility for the Borrego  
18 Landfill, San Diego County.

19 COMMITTEE MEMBER PAPARIAN: Second.

20 CHAIRPERSON MARIN: And second.

21 Call the roll.

22 EXECUTIVE ASSISTANT JIMENEZ: Mulé?

23 COMMITTEE MEMBER MULÉ: Aye.

24 EXECUTIVE ASSISTANT JIMENEZ: Paparian?

25 COMMITTEE MEMBER PAPARIAN: Aye.

1 EXECUTIVE ASSISTANT JIMENEZ: Marin?

2 CHAIRPERSON MARIN: Aye.

3 So we will put this on consent.

4 Thank you, Tad. What a wonderful presentation.

5 Now we're going to go into Item Number 2, or Item  
6 B in our agenda.

7 BRANCH MANAGER ANDERSON: And this presentation  
8 will be given by Bernie Vlach and his staff, Garth Adams  
9 and Bridget Brown.

10 (Thereupon an overhead presentation was  
11 presented as follows.)

12 BRANCH MANAGER VLACH: Good afternoon, Members.  
13 My name is Bernie Vlach. I'm the Manager of the  
14 Facilities Operation Branch of the Permitting and  
15 Enforcement Division.

16 With this item, we're hopefully near the end of a  
17 process that began about three years ago with a  
18 recommendation by the State Auditor's Office. During that  
19 time, there had been five public meetings like this with  
20 Board members, as well as three other meetings -- public  
21 meetings which Board members didn't attend, but which  
22 involved more the regulated community. So this kind of  
23 process tends to narrow down the issues that started off  
24 in the beginning in 2001-2002 with some policy matters  
25 which were considered. And then towards the end,

1 especially at the last meeting, the Board is looking at  
2 specific technical issues related to the regulations.

3 So in this meeting, we're asking that the Board  
4 or the Committee recommend to the Board adoption of these  
5 regulations, and I'll let the staff get into more detail.  
6 Thank you.

7 CHAIRPERSON MARIN: Go ahead.

8 MS. BROWN: Good afternoon. I'm Bridget Brown  
9 with the Facilities Operations Branch. This item is for  
10 consideration of adoption of proposed solid waste facility  
11 permit application form regulation revisions.

12 --o0o--

13 MS. BROWN: The 2001 state auditor's report  
14 recommended that the Board collect accurate landfill  
15 capacity information in a consistent manner.

16 --o0o--

17 MS. BROWN: At the July 18th, 2001, agenda  
18 briefing workshop, the Board directed staff to provide  
19 proposals on creating a central database to maintain and  
20 update remaining landfill capacity data.

21 At the February 19th, 2002, Board meeting, staff  
22 proposed the idea of a new regulatory requirement for  
23 landfill operators to submit remaining landfill capacity  
24 data in a consistent manner on a regular basis so staff  
25 could establish baseline quantities and provide for annual

1 updates. At that time, the Board directed staff to look  
2 at existing systems of data compiled by other Board  
3 programs to use as possible sources of remaining landfill  
4 capacity information. The Board was concerned about  
5 another regulation requirement being placed on operators  
6 and preferred for staff to use an already existing  
7 mechanism for collecting this information.

8 --o0o--

9 MS. BROWN: At the June 10th, 2002, Permitting  
10 and Enforcement Committee meeting, staff proposed using  
11 the existing solid waste facility permit application form  
12 as a means of gathering the landfill capacity information,  
13 as this information had been required for many years as  
14 part of the permitting application form. The Committee  
15 agreed to the use of the existing permit application form  
16 to continue collecting remaining landfill capacity  
17 information.

18 --o0o--

19 MS. BROWN: The existing permit application form  
20 has always required remaining landfill capacity data. The  
21 form requires significant revisions, especially the  
22 section requiring landfill capacity information, because  
23 there were no instructions for completing that part of the  
24 form. Revisions to the other part of the form included  
25 removing items that are no longer applicable. For

1 example, deleting the requirement for submitting county  
2 solid waste management plans, or CSWMPs, which are now  
3 obsolete.

4           Staff also had to review the accompanying  
5 constructions to provide clarity and consistency on the  
6 form. A working group from various areas of the  
7 Permitting and Enforcement Division and a member of the  
8 Board's legal staff was created to revise and update the  
9 application and provide clear and concise instructions for  
10 completing the application form.

11           A focus group consisting of members of the  
12 regulated community was then formed to review the revised  
13 application and provide preliminary comments. As a  
14 result, the application form was further revised before  
15 holding a public workshop. Staff held an informal public  
16 workshop on March 25th, 2003, and made additional changes  
17 to the form based upon input from the workshop.

18           At its April 7th, 2003, meeting, the Permitting  
19 and Enforcement directed staff to notice a 45-day comment  
20 period for proposed changes to the permit applications and  
21 instructions. The comment period began on February 27th,  
22 2004, and closed on April 12th. Staff received four  
23 written comment letters during this period and one after  
24 the comment period closed. Staff responded to all  
25 comments.



1           On May 6th, 2004, Board staff met with industry  
2 representatives to discuss concerns viewed in the comment  
3 letters. The meeting was productive and resulted in  
4 additional changes to the draft regulations.

5                               --o0o--

6           MS. BROWN: On May 12th, 2004, the Board directed  
7 staff to meet again with the industry representatives to  
8 work out the last few issues and go out for an additional  
9 15-day comment period. Staff met with industry  
10 representatives for a second time on June 10th, 2004. The  
11 meeting was again productive, and we believe we worked out  
12 all the issues related to the regulations, except for one.  
13 I will discuss this particular comment in a moment.

14                               --o0o--

15           MS. BROWN: The 15-day public comment period  
16 began on July 15th and ended on July 30th, 2004. Staff  
17 received five written comment letters, only one of which  
18 related to the newly proposed changes to the regulations  
19 as required by the 15-day comment period notice. The  
20 remainder of the comment letters addressed issues outside  
21 of the newly proposed regulation changes.

22           A summary of these comments and responses  
23 include:

24           One comment on the necessity of requiring  
25 applicant's Social Security number in part 7 and 8 of the

1 form. Staff determined that no change to the regulations  
2 is required.

3 One comment requesting clarification of the  
4 changes staff made to part 1(c) of the form. Staff moved  
5 the information pertaining to changes in the  
6 owner-operator address and facility name from part 1,  
7 which is general information, to part 3, facility  
8 information, which we feel is a better fit.

9 One comment asking if there is a distinction  
10 between the terms "modification" and "revision." With  
11 regards to these regulations, there is no distinction.  
12 The terms are interchangeable.

13 There were two comments requesting deletion of  
14 the subcategories disposal transfer and other beneath the  
15 term peak daily tonnage or cubic yards in part 3(b)(1) of  
16 the form. Staff determined that no change to the  
17 regulations is required for this part. Clarification to  
18 these subsections will be provided in the final statement  
19 of reasons, however.

20 One comment on updating the definition of  
21 transformation. Staff will update the current definition  
22 for transformation in the instructions to reflect the  
23 existing one now in statute. The Board's Legal Office  
24 determined that this would not require an additional  
25 15-day comment period.

1           One comment stating that the term "landfill air  
2 space" is not a permitting or minimum standard issue and  
3 should not be a part of the permit application form  
4 renewal process. No change to the regulations is  
5 necessary.

6           And one comment recommending operators submit  
7 landfill capacity information either annually or at least  
8 once every five years, but not as a part of the permitting  
9 process.

10           Staff originally proposed the idea of a new  
11 regulatory requirement for landfill operators to submit  
12 annual remaining landfill capacity data at the February  
13 19th, 2002, Board meeting. At that time, the Board  
14 directed staff to look at existing systems of data  
15 compiled by other Board programs to use as possible  
16 sources of remaining landfill capacity information and  
17 eventually approved the continued use of a solid waste  
18 facility permit application form.

19                               --o0o--

20           MS. BROWN: The one comment letter received  
21 during the 15-day comment period that was related to the  
22 newly proposed changes to the regulation requested that  
23 the Board exempt facilities taking an average of 20 tons  
24 per day or less from the requirement to conduct a survey.  
25 This is also the one remaining issue that staff was unable

1 to resolve from the previous 45-day comment period,  
2 despite numerous conversations with the parties involved.

3           As a compromise, staff modified the requirement  
4 to allow facilities permitted to accept 20 tons per day or  
5 less to conduct a survey every ten years instead of every  
6 five years. From Board staff's perspective, requiring a  
7 survey once every ten years is not an owner's requirement.  
8 But allowing facilities to become exempt from this  
9 reporting requirement, the purpose of the Board to develop  
10 accurate remaining landfill capacity information in a  
11 consistent manner is compromised.

12                               --o0o--

13           MS. BROWN: This map shows those counties in the  
14 state that will be effected if facilities permitted to  
15 accept 20 tons per day or less are allowed to be exempt.  
16 Yellow areas indicate counties with no remaining landfill  
17 capacity data. Blue areas indicate counties with only  
18 partial remaining landfill capacity data.

19           As indicated on the map, the Board will lack  
20 accurate remaining landfill capacity data for significant  
21 portions of the state if sites are exempted from the  
22 survey requirement, which is contrary to the auditor's  
23 recommendation and staff's direction.

24           And this concludes my part of the presentation.  
25 Next is Garth Adams.

1 CHAIRPERSON MARIN: Thank you, Bridget.

2 MR. ADAMS: We're tag teaming here.

3 Madam Chair, members of the Committee, my name is  
4 Garth Adams, Facilities Operations Branch.

5 I'd like to take a moment to address a few of the  
6 points in the August 3rd letter that you recently  
7 received. The first point is this letter was received  
8 after the 15-day comment period closed and does not  
9 address any of the proposed changes noticed in the 15-day  
10 comment period.

11 Staff appreciates the acknowledgement of working  
12 with the industry on the technical issues that were  
13 mentioned in the letter. The remaining capacity  
14 information requirement in the application is not a new  
15 requirement. Staff has provided instructions for every  
16 component requested in the application to assure clear and  
17 concise instructions for completing the application. The  
18 existing application form lacked instructions for every  
19 single box, and it wasn't clear what the operators were  
20 supposed to provide. We've added that, per the direction  
21 of the Board.

22 Revisions and updates to the existing application  
23 do not circumvent any local government's direct  
24 involvement as a permitting agency. The operator fills  
25 out the application and submits it to the local

1 enforcement agency for review, and the LEA then forwards  
2 the application and supporting documentation to the Board  
3 for consideration. The LEA is local government.

4 Even though the reporting cycle is every five  
5 years, the air space utilization factor provided by the  
6 operator in the application and the tonnage data reported  
7 to the Board of Equalization will provide the information  
8 to estimate the remaining capacity on a quarterly basis.

9 The next five-year survey that would come along  
10 the next time that either the review or maybe when they  
11 touch their permit again will enable the operator to  
12 recalibrate their data to reflect any settlement in the  
13 waste or other factors impacting remaining capacity over  
14 the previous five years.

15 It is clear that landfill capacity is a part of  
16 the permitting process. The Borrego permit item that you  
17 just heard specifies permitted capacity of that item.  
18 Another example is when an operator requests an expansion  
19 of the landfill's existing capacity, they are seeking a  
20 permit for additional capacity.

21 The issue of the Board utilizing remaining  
22 capacity information as a reason to not concur in the  
23 issuance of a solid waste facility permit has been raised.  
24 Staff were unable to take that concern into consideration  
25 as a technical matter in revising the permit application.

1 A Board member responded to that issue early on in the  
2 rule making process by reminding industry representatives  
3 that the Board does not have the statutory authority to  
4 take remaining capacity into consideration when  
5 considering the permit action before them.

6 The Board's direction was and has been to amend  
7 the existing solid waste facility permit application and  
8 to include clear and concise instructions completing all  
9 the requirements that are in the application. Having said  
10 that, staff would like the Committee to recommend adoption  
11 of these regulations to the full Board.

12 CHAIRPERSON MARIN: Thank you, Garth. Is that  
13 it?

14 BRANCH MANAGER VLACH: That concludes the staff  
15 presentation, Madam.

16 CHAIRPERSON MARIN: Okay. Wonderful. There are  
17 a few people that would like to speak. I'm going to let  
18 them speak first.

19 Okay. Scott Smithline from Californians Against  
20 Waste.

21 MR. SMITHLINE: Madam Chair, Committee members,  
22 good afternoon. Scott Smithline, Californians Against  
23 Waste.

24 I'm here today to testify in support of the  
25 staff's recommendation. As long as we're landfilling over

1 half of our waste in the state of California, we think  
2 that remaining capacity information is really of critical  
3 importance. And taking into account the lead times and  
4 landfills ranging up to ten years, we think that requiring  
5 that this information be regularly and consistently  
6 reported is really critical for planning at the state  
7 level.

8 As far as the staff's proposal, we think that  
9 requiring the information to be delivered in this format  
10 is an efficient method. It utilizes the existing  
11 infrastructure. Doesn't require an additional regulatory  
12 package. Staff time, we have the staff. The staff can  
13 handle it. And the staff say they can handle it, but in  
14 this permitting process. So we think this is a good  
15 method. We urge you to support the staff recommendation.

16 CHAIRPERSON MARIN: Thank you, Mr. Smithline.

17 Chuck Helget from FBI. I'm sorry.

18 (Laughter)

19 CHAIRPERSON MARIN: And the CIA. We always  
20 wondered, Chuck. I'm sorry about that.

21 MR. HELGET: Madam Chair, members of the  
22 Committee. Chuck Helget representing Allied Waste, BFI.

23 We're testifying in support of the regulation  
24 package today, with the understanding that there is  
25 language that is being proposed to add some language to



1 the statement of reason to clarify that this is not  
2 information that will be used to vote permits up and down.

3 And we also understand from conversations with  
4 staff that basically this is the same requirement that's  
5 in existing regulations. Capacity is part of the current  
6 application package. And that to that extent, essentially  
7 nothing changes. This is just a clarification, a better  
8 way of providing you with additional information and  
9 capacity.

10 So with that in mind, we would support the  
11 recommendation package.

12 CHAIRPERSON MARIN: Thank you, Mr. Helget with  
13 the BFI.

14 Larry Sweetser.

15 MR. SWEETSER: Good afternoon, Board members. My  
16 name is Larry Sweetser. I'm here on behalf of our 21  
17 member Rural County Association. And we are, I guess, the  
18 loan dissenter on one of the issues.

19 We do appreciate all of staff's effort and the  
20 workshops and the meetings. We've been regular attendees  
21 at that, and we've worked really well with the staff on  
22 many issues. We just have this one remaining issue we've  
23 been deadlocked on. That's the survey issue.

24 Our concern is that some of our rural counties,  
25 not a lot of tonnage, are put in a position of having to

1 spend money on a survey to get "accurate data" on  
2 something that is, in our opinion, not quite as necessary  
3 as it needs to be. Surveys do provide a lot of valuable  
4 information. In fact, many of our landfills have done the  
5 type of surveys that would meet these requirements, even  
6 some as low as one or two tons a day have done those  
7 surveys.

8 But in some cases, some of the counties can't  
9 afford to spend anywhere from several thousand to \$8,000  
10 for a survey. That's the price I got from checking with  
11 my counties. And my prime example I used last time was  
12 Sierra County. They have a landfill. It takes eight tons  
13 per day. That's less than a garbage truck. And that  
14 serves the entire county of several thousand people. They  
15 are in a dilemma of trying to spend money on road  
16 equipment to meet new diesel requirements, all these other  
17 regulatory requirements. To have them spend more money on  
18 a survey just seems excessive when by all the reasonable  
19 estimates they have, it's not scientific. It's not an  
20 engineered signed-off survey.

21 They have at least about 20 years of capacity in  
22 their landfill. At eight tons a day, 20 years of  
23 capacity, you kind of know how much capacity you're going  
24 to have in these facilities. So we've been seeking to  
25 have the exemption for the less than 20 tons per day put

1 in there.

2           The map is a little confusing to me. It's the  
3 first time I've seen it. I have to look at it a little  
4 more. But most of those counties are our member counties.  
5 And they do know, at least to a reasonable level of  
6 certainty, how much capacity they have in those  
7 facilities. When they get close to closure, they know  
8 they have to do more effort. That might even warrant a  
9 survey to find out exactly what they need to do. But to  
10 require a survey for accuracy's sake seems a bit of an  
11 excessive cost.

12           One of the examples I can use that even if they  
13 go ahead and spend thousands of dollars for a survey, may  
14 not necessarily be "accurate." They will have an  
15 engineering estimate signed off saying they have X cubic  
16 yards of capacity in that facility. Doesn't mean they're  
17 going to use that capacity. In many cases many of the  
18 rural landfills have been closing over time due to  
19 regulatory pressures, environmental issues. They're never  
20 going to reach that capacity. Even if we spend thousands  
21 of dollars to give you a number that says there's X space,  
22 there's no certainty that's going to be used and, in fact,  
23 probably will not. They will have spent thousands of  
24 dollars to come up with a number to satisfy a requirement  
25 that doesn't have a lot of use for them.

1           So we've actually -- our latest letter --  
2   proposal that we hope you will consider in the package  
3   that merely asks for an ability to have an alternative  
4   that has gone through some scrutiny through the LEAs, even  
5   the Waste Board if we need to, that some other means of  
6   meeting the survey requirement can be met, rather than to  
7   spend thousands of dollars on an engineering study.  
8   That's what we're hoping you'll consider. I guess that  
9   might mean a delay in the package to an extent, but it's  
10  such a minor change. I've talked to a number of parties.  
11  Nobody else seems to have much of a concern with trying to  
12  find some accommodation for some of these counties.

13           CHAIRPERSON MARIN: Mr. Paparian.

14           COMMITTEE MEMBER PAPARIAN: I was hoping our  
15  staff could respond to this suggestion. What do you think  
16  of it?

17           CHAIRPERSON MARIN: Let me just ask another  
18  question before you answer that.

19           You mentioned one particular landfill that has  
20  about six -- that takes in about six tons a day. How many  
21  are we talking about that are under 20? Your best  
22  estimate.

23           MR. SWEETSER: I've come from the database, and  
24  staff may correct me, but I think we're looking at about  
25  40, 50 landfills throughout the state, many of whom,

1 including some of ours, have actually already done surveys  
2 that would meet the requirement. So my guess -- this is a  
3 wild guess, probably looking at less than a dozen sites  
4 that haven't done a survey that would not want to do one.  
5 That's a guess.

6 CHAIRPERSON MARIN: Staff.

7 BRANCH MANAGER VLACH: To answer Mr. Paparian's  
8 question -- Mr. Paparian, would you mind repeating the  
9 question? I can't remember very well what you asked.

10 COMMITTEE MEMBER PAPARIAN: Basically, what do  
11 you think of this proposal that's being suggested by the  
12 ESJPA?

13 BRANCH MANAGER VLACH: We've discussed similar  
14 proposals with Mr. Sweetser and discussed it with others  
15 at the local level, Glenn County, for example. We feel  
16 that -- I think the regulations simply say that a survey  
17 that's conducted by and signed off by a registered land  
18 surveyor is sufficient for our needs. Now, if you want to  
19 go beyond that, then staff feels there's too much  
20 uncertainty about what exactly the Board is getting.

21 COMMITTEE MEMBER PAPARIAN: One of these  
22 facilities wouldn't need necessarily to do the aerial  
23 survey?

24 BRANCH MANAGER VLACH: No, sir. A land surveyor  
25 has different techniques available to them. They can

1 order an aerial survey. They can have a ground crew go in  
2 at their leisure and conduct a survey. They can use GPS.  
3 We don't prescribe the method. We just simply say  
4 something that is conducted by a registered land surveyor.

5 COMMITTEE MEMBER PAPARIAN: How long would it  
6 take a land surveyor to look at one of these small  
7 landfills? Is it a week long task? A day long task?  
8 Typically --

9 BRANCH MANAGER VLACH: I'm not a land surveyor.  
10 I don't know. But I can't imagine somebody with a transit  
11 and a pole would spend that many hours out there taking --  
12 setting the points and taking the survey.

13 COMMITTEE MEMBER PAPARIAN: That doesn't meet  
14 your needs, though, Larry?

15 MR. SWEETSER: Ground surveys are an option. In  
16 some cases they're cheaper. In some cases they're  
17 actually more expensive. When you look at the map and  
18 Indio County, sort of the big blue area there, you look at  
19 those bottom right dots. To get a surveyor from the  
20 county down out there is usually like a five, six, seven  
21 hour drive in some cases, depending on weather conditions.  
22 Even at optimum times, a four-hour drive of a surveying  
23 crew to go out to that site to come back, survey a site,  
24 could easily take a crew a day or more worth of effort to  
25 do that.

1           So in some cases, for those sites -- and,  
2 actually, I think one of those sites did do an aerial  
3 survey because it was cheaper. So what I'm thinking of --  
4 I mean, even a simple alternative is knowing essentially  
5 how much air space is above it. You've got a landfill.  
6 Typically, all kinds of weird geometry down here. But if  
7 you even it out and just take the area above that, you  
8 would have a pretty good level of certainty to know that  
9 you've got at least 10, 15 years of capacity. If you're  
10 looking at five years of capacity from something like  
11 that, you know you have to do more effort and maybe even a  
12 survey at that point.

13           But there are a number of alternative ways to be  
14 looking at capacity without having to require some sort of  
15 an engineer-approved survey. We're just looking to --  
16 hope the regulations would allow that kind of an option to  
17 go forward and go through whatever regulatory scrutiny  
18 they need to, but allow some options just doing the  
19 surveys.

20           CHAIRPERSON MARIN: Let me try to find out here  
21 how we can get to consensus, because I appreciate what  
22 you're saying. I also appreciate the request that for the  
23 vast majority of people -- whenever we have a cutoff, so  
24 what happens to the one that takes 21 tons, you know,  
25 versus the one that takes only six? You know, at one

1 point in time there's got to be a cut off.

2           And my concern is, you know, we do it for one,  
3 then somebody else is going to come in and say, "Well,  
4 what about me?" And it's a real challenge for those of us  
5 that are setting policy across the state. If it was a  
6 region, it would be a different. If it was a city, it  
7 would be different. But when we're talking about the  
8 state, the regulations are the same whether you are in El  
9 Cajon or whether you are in Ukiah. When we set the  
10 policy, it's for everybody.

11           Now staff is -- if I hear correctly, you only  
12 want the survey to be done by a certified surveyor,  
13 whether it is an aerial or a land surveyor or some  
14 professional certified way of saying this is how much is  
15 left.

16           BRANCH MANAGER VLACH: Yes, ma'am. We don't  
17 prescribe the way it's done. We simply say what's  
18 available to a registered land surveyor, that's all right  
19 with us.

20           The other thing we tried to do in this area is to  
21 compromise and revise the regulations to say that the  
22 survey only needed to be conducted every ten years, rather  
23 than every five years. So we've tried to meet this issue  
24 halfway, and we felt like we've done that.

25           CHAIRPERSON MARIN: So let me ask you again.



1 Ten years, it's still, for you, a cost regardless of  
2 whether it's five or ten years. But at ten years, it's  
3 obviously half the cost.

4 MR. SWEETSER: That's one way to look at it.  
5 It's also money that has to be spent. It's less painful,  
6 but it's still painful. You're dealing with counties that  
7 have very limited budgets. When something like a \$5,000  
8 bill comes through, they have to figure out what else  
9 they're not going to do.

10 And there are accommodations in the regulations  
11 for different size facilities and the realization that all  
12 regulations don't fit one size facility. There are a  
13 number of examples we can point to that allow certain  
14 exemptions by size or other means for facilities.

15 CHAIRPERSON MARIN: Well, let's see. What's the  
16 pleasure of this Committee? We don't necessarily have to  
17 make the decision this second. Do we listen to the next  
18 person? You're going to be around anyways; right?

19 MR. SWEETSER: Oh, yes.

20 CHAIRPERSON MARIN: Thank you, Mr. Sweetser.  
21 Chuck White. That shouldn't be too difficult.  
22 Mr. White.

23 MR. WHITE: Thank you, Madam Chair, members of  
24 the Committee. Chuck White with Waste Management.

25 Waste Management has never objected to providing

1 accurate landfill capacity data. And our biggest concern  
2 has been that it not be part of the permitting process or  
3 be a condition to which a permit could be held hostage to.  
4 And so the best way in our mind to resolve this issue  
5 would be to take it out of the permit application process  
6 all together.

7           And, of course, additional concern which is  
8 probably more direct to our concern, is, are you really  
9 going to get frequent, accurate landfill capacity data,  
10 given permit renewals are once every five years? For  
11 example, if these regulations go into effect today, it  
12 will be five years before you'll ever have all the  
13 information on the landfills in the state through this  
14 process. So you're always going to be -- some of the  
15 landfills will be always as much as five years out of  
16 whack. We would be certainly be willing to do a more  
17 frequent reporting process, but outside of the permitting  
18 process.

19           But that being said, I have seen the language  
20 that has been suggested. I think we'd feel like, number  
21 one, we'd be most comfortable if it was taken out of the  
22 permit application process all together. We'd feel  
23 comfortable if it was clarified that it was not part of a  
24 permit decision. It was not a minimum standard to which  
25 your permit could be hostage to. I guess our preference

1 would be to have that clarification in the regulations.

2           What you're suggesting here is in the final  
3 statement of reasons have a very clear language, and I  
4 think we could live with that. It wouldn't be our  
5 preference. We wish it was a little more strongly worded  
6 or out of the permit application regulations all together.  
7 But we understand your desire to move these regulations  
8 forward. So we will bow to the Board's desires on this.

9           But we appreciate the opportunity to raise this  
10 concern, and we do hope that you do put a very clear  
11 statement in the final statement of reasons that this is  
12 not a minimum standard. It's not subject to permitting  
13 conditions, and it's just an information item for the  
14 benefit of the Board and people of the state of  
15 California. Thank you.

16           CHAIRPERSON MARIN: Thank you, Mr. White. Okay.

17           Committee members, what's your pleasure? They  
18 don't have a pleasure.

19           Well, go ahead.

20           COMMITTEE MEMBER PAPARIAN: Go ahead.

21           CHAIRPERSON MARIN: One of the things I wanted to  
22 acknowledge and thank the incredible fast work of our  
23 legal staff, our legal people. We had a conversation  
24 yesterday and really they attempted to go to the very  
25 specific concerns that had been raised. And after that

1 work, I really have to commend staff, because I think you  
2 specifically expressed the concern in such a way that is  
3 not the intention of this Board and this is not the  
4 intention of these regulations. And it's not the  
5 intention of the state of California. And so I have to  
6 commend you for the fast work.

7 And that would only leave the remaining issue of  
8 the rural counties, unless you want to say something else  
9 regarding that other issue. Do you want to deal with the  
10 rural counties?

11 COMMITTEE MEMBER PAPARIAN: Well, I was just  
12 going to say, you're a very effective advocate. But I  
13 think the staff has done some accommodation here. Once  
14 every ten years, the ability to use the registered  
15 surveyor, which gives, I think, some flexibility and  
16 alternative to doing an aerial survey. So, you know, I'm  
17 often very sympathetic -- I'm always very sympathetic to  
18 the rural counties, but I think that, you know, the once  
19 every ten years and the alternatives that are available  
20 provide the level of flexibility in the context of us  
21 wanting to have some accurate information. So I'm  
22 inclined to leave it as it is.

23 CHAIRPERSON MARIN: Ms. Mulé.

24 COMMITTEE MEMBER MULÉ: I have a question for  
25 staff. Did I hear Larry or one of you mention that there

1 are -- there may be an exemption for the rural counties  
2 from the ten year? No.

3 MS. BROWN: No. It wouldn't be an exemption. We  
4 juxtaposed if we didn't do a ten year and they were  
5 exempt, that it wouldn't provide for consistent data. So  
6 that's what we were doing in the staff report. There was  
7 a juxta position.

8 COMMITTEE MEMBER MULÉ: Thank you.

9 CHAIRPERSON MARIN: Okay. There's always the  
10 tenancy to want to accommodate and alleviate the concerns  
11 that were expressed. I do agree with Mr. Paparian. You  
12 have raised very, very good issues. I believe staff has  
13 worked diligently to try to address them.

14 At one point in time I believe somebody was  
15 mentioning 200 tons a day capacity. This is way back  
16 when, and it went all the way down to 20. That's an  
17 incredible reach.

18 And, in addition, they went from five years to  
19 ten years, further reducing the amount or the financial  
20 impact that some of these landfills would have to sustain.

21 But I agree if we're going to do one, we're going  
22 to do all of them. And believe the staff has been very  
23 reasonable in their approach. So I would agree with  
24 Mr. Paparian in that regard.

25 Without any further discussion -- I want to just

1 for the record so -- not everybody has what we've been  
2 talking about, the language that has been proposed. Would  
3 you like to read it, Mr. Elliot, just in case to make sure  
4 that goes on record and it's going to be on the record  
5 more than once.

6 STAFF COUNSEL BLOCK: Elliot Block from the Legal  
7 Office.

8 And this is language that -- I guess the proposal  
9 to respond to some of the concerns we would add to the  
10 final statement of reasons. There's an introductory  
11 paragraph in there talking about what the purpose of the  
12 regulations are. And then we were proposing adding a  
13 couple of sentences at the end of the paragraph. I won't  
14 read the whole paragraph, just the last two sentences  
15 would say, "It should be noted that the Act" -- we're  
16 talking about the Integrated Waste Management Act -- "does  
17 not provide that landfill capacity can be used as a basis  
18 for objecting to a proposed permit, nor is it the intent  
19 or within the authority of these regulations to allow  
20 landfill capacity to be used in such a manner. In  
21 addition, it should be recognized that the proposed  
22 regulations will result in more accurate capacity  
23 information, but that this information will still be based  
24 upon estimates which will need to be reviewed and adjusted  
25 on a periodic basis.

1 CHAIRPERSON MARIN: Thank you, Mr. Block.

2 Is there a motion that we need to consider?

3 There's no motion.

4 STAFF COUNSEL BLOCK: It should be a resolution.

5 CHAIRPERSON MARIN: 2004-207.

6 COMMITTEE MEMBER PAPARIAN: I'll move Resolution  
7 2004-207.

8 COMMITTEE MEMBER MULÉ: Second.

9 CHAIRPERSON MARIN: Call the roll, please.

10 EXECUTIVE ASSISTANT JIMENEZ: Mulé?

11 COMMITTEE MEMBER MULÉ: Aye.

12 EXECUTIVE ASSISTANT JIMENEZ: Paparian?

13 COMMITTEE MEMBER PAPARIAN: Aye.

14 EXECUTIVE ASSISTANT JIMENEZ: Marin?

15 CHAIRPERSON MARIN: Aye.

16 Will this go on consent or be recommended?

17 STAFF COUNSEL BLOCK: Pleasure of the Board.

18 CHAIRPERSON MARIN: It will go for recommendation  
19 for consent. And if any other Board member would like to  
20 pull it out, then that would be the case.

21 Okay. Thank you, ladies and gentlemen. This has  
22 been a wonderful Committee. We'll see you next month.

23 (Thereupon the California Integrated Waste  
24 Management Board, Permitting and Enforcement  
25 Committee adjourned at 2:17 p.m.)

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 16th day of August, 2004.

15

16

17

18

19

20

21

22 TIFFANY C. KRAFT, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 12277

25